

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

Z.C. Case No. 14-11B

(Text Amendment – 11 DCMR)

(Subtitle B, Definitions; Subtitle D, Zones R-2, R-13, R-17, and R-20; Subtitle E, RF Zones; and Subtitle U, Use Permissions RF Zones)

The Zoning Commission for the District of Columbia, (Commission) pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2012 Rep1.), hereby gives notice of its intent to amend Subtitles B (Definitions, Rules of Measurement, and Use Categories); D (Residential House (R) Zones); E (Residential Flat (RF) Zones); and U (Use Permissions) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

The proposed text amendments address concerns about excessively disproportionate rear extensions adjoining attached and semi-detached buildings in the R-2, R-3, R-13, R-17, R-20, and RF zones by adding language limiting a matter-of-right rear extension to such buildings, whether as an addition to an existing building or as new construction, from extending further than ten feet (10 ft.) beyond the farthest rear wall of an adjoining principal residential building on an adjoining property. The amendments allow a rear extension to extend further than ten feet (10 ft.) if approved as a special exception. The proposed limitation does not apply to detached buildings because a detached building, including any rear addition, would be subject to side yard requirements that provide separation from adjacent buildings.

Also proposed are amendments to the adopted text from Z.C. Case No. 14-11 regarding conversions to apartment houses in the RF zones that make clarifications requested by the Zoning Administrator. These amendments are identified and explained in Part II of the Office of Planning's setdown report for this case, which is Exhibit No. 1 in the record. Finally, the amendments would make clarifying changes to the rules prohibiting in an RF zone the removal or significant alteration of original rooftop architectural elements or the construction of an addition that would interfere within an existing solar energy system

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following amendments to Title 11 DCMR are proposed (additions are shown in **bold underlined** text and deletions are shown in ~~striketrough~~ text):

Title 11-B DCMR, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:

Chapter 1, DEFINITIONS, is amended as follows:

The definition of “Boarding House” in § 100.2 of § 100, DEFINITIONS, is amended to read as follows:

Boarding House: A building or part thereof where, for compensation, lodging and meals are provided to three (3) or more guests on a monthly or longer basis-; **a boarding house shall be considered a residential structure.**

Title 11-D DCMR, RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, is amended as follows:

New §§ 306.3 and 306.4 are added to § 306, REAR YARD, to read as follows:

306.3 **Notwithstanding Subtitle D §§ 306.1 and 306.2, a rear wall of an attached or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property.**

306.4 **A rear wall of an attached or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle X, Chapter 9 and as evaluated against the criteria of Subtitle D §§ 5201.3(a) through 5201.3(d) and §§ 5201.4 through 5201.6.**

Chapter 7, NAVAL OBSERVATORY RESIDENTIAL HOUSE ZONES - R-12 AND R-13, is amended as follows:

New §§ 706.3 and 706.4 are added to § 706, REAR YARD, to read as follows:

706.3 **Notwithstanding Subtitle D §§ 706.1 and 706.2, a rear wall of an attached or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property.**

706.4 **A rear wall of an attached or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle X, Chapter 9 and as evaluated against the criteria of Subtitle D §§ 5201.3(a) through 5201.3(d) and §§ 5201.4 through 5201.6.**

Chapter 10, FOGGY BOTTOM RESIDENTIAL HOUSE ZONES - R-17, is amended as follows:

New §§ 1006.2 and 1006.3 are added to § 1006, REAR YARD, to read as follows:

1006.2 Notwithstanding Subtitle D § 1006.1, a rear wall of an attached or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property.

1006.3 A rear wall of an attached or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle X, Chapter 9 and as evaluated against the criteria of Subtitle D §§ 5201.3(a) through 5201.3(d) and §§ 5201.4 through 5201.6.

Chapter 12, GEORGETOWN RESIDENTIAL HOUSE ZONES – R-19 AND R-20, is amended as follows:

New §§ 1206.3 and 1206.4 are added to § 1206, REAR YARD, to read as follows:

1206.3 Notwithstanding Subtitle D § 1206.2, a rear wall of an attached or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property.

1206.4 In the R-20 zone a rear wall of an attached or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle X, Chapter 9 and as evaluated against the criteria of Subtitle D §§ 5201.3(a) through 5201.3(d) and §§ 5201.4 through 5201.6.

Title 11-E DCMR, RESIDENTIAL FLAT (RF) ZONES, is amended as follows:

Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), is amended as follows:

New §§ 205.4 and 205.5 are added to § 205, REAR YARD, to read as follows:

205.4 Notwithstanding §§ 205.1 through 205.3, a rear wall of an attached or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property.

205.5 **A rear wall of an attached or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle X, Chapter 9 and as evaluated against the criteria of Subtitle E §§ 5201.3 through 5201.6.**

Section 206, ROOF TOP OR UPPER FLOOR ADDITIONS, is amended to read as follows:

206 **ROOF TOP OR UPPER FLOOR ADDITIONS**

206.1 In an RF zone district, the following provisions shall apply:

- (a) A roof top architectural element original to the building such as **cornices, porch roofs,** a turret, tower or dormers, shall not be removed or significantly altered, including **shifting its location,** changing its shape or increasing its height, elevation, or size. **For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;**
- (b) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent **compliant with any District of Columbia municipal code** on an adjacent property. ~~required by any municipal code;~~ **A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;** and
- (c) Any addition, including a roof structure or penthouse, shall not **significantly** interfere with the operation of an existing ~~or permitted~~ solar energy system **of at least 2kW** on an adjacent property, ~~as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator,~~ **unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph, the following quoted phrases shall have the associated meanings:**
 - (1) **“Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and**
 - (2) **“Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building**

permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:

(i) Legally permitted, installed and operating; or

(ii) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system.

206.2 In an RF zone district, relief from the design requirements of Subtitle E § 206.1 may be approved by the Board of Zoning Adjustment as a special exception under ~~Subtitle Y~~ **Subtitle X**, Chapter 9, subject to the conditions of Subtitle E § 5203.3.

Title 11-U DCMR, USE PERMISSIONS, is amended as follows:

Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, is amended as follows:

Subsection 301.2 of § 301, MATTER-OF-RIGHT USES (RF), is amended to read as follows:

301.2 Conversion of an existing non-residential building **or structure** ~~existing prior to May 12, 1958, to a residential building~~ **an apartment house** shall be permitted as a matter of right in an RF-1, RF-2, or RF-3 zone subject to the following conditions:

- (a) **The building or structure to be converted is in existence** ~~There is an existing non-residential building~~ on the property at the time of filing an application for a building permit;
- (b) The maximum height of any addition to the existing structure shall not exceed thirty-five feet (35 ft.);
- (c) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;
- (d) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;

- (e) A roof top architectural element original to the structure such as **cornices, porch roofs,** a turret, tower, or dormers shall not be removed or significantly altered, including **shifting its location,** changing its shape or increasing its height, elevation, or size. **For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure’s rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;**
- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent **compliant with any District of Columbia municipal code** on an adjacent property, ~~required by any municipal code;~~ **A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;**
- (g) Any addition, including a roof structure or penthouse, shall not **significantly** interfere with the operation of an existing ~~or permitted~~ solar energy system **of at least 2kW** on an adjacent property, ~~as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator;~~ and **unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph the following quoted phrases shall have the associated meaning:**
- (1) **“Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and**
- (2) **“Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:**
- (i) **Legally permitted, installed and operating; or**
- (ii) **Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused**

solely by a utility company connecting to the solar energy system; and

- (h) An apartment house in an RF-1, RF-2, or RF-3 zone converted from a non-residential building prior to June 26, 2015, shall be considered a conforming use and structure, but shall not be permitted to expand, either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and Subtitle U § 320.3

Section 320, SPECIAL EXCEPTION USES (RF), is amended as follows:

Paragraphs (f) through (h) of § 320.2 are amended to read as follows:

320.2 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

...¹

- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent **compliant with any District of Columbia municipal code** on an adjacent property; ~~required by any municipal code;~~ **A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;**
- (g) Any addition, including a roof structure or penthouse, shall not **significantly** interfere with the operation of an existing ~~or permitted~~ solar energy system **of at least 2kW** on an adjacent property **unless agreed to by the owner of the adjacent solar energy system,** ~~as evidenced through a shadow, shade, or other reputable study acceptable to the Board of Zoning Adjustment;~~ **For the purposes of this paragraph the following quoted phrases shall have the associated meaning:**
- (1) “Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five per cent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and**

¹ The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

(2) “Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:

(i) Legally permitted, installed and operating: or

(ii) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;

(h) A roof top architectural element original to the house such as **cornices, porch roofs,** a turret, tower, or dormers shall not be removed or significantly altered, including **shifting its location,** changing its shape or increasing its height, elevation, or size. **For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure’s rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;**

...

The first sentence of § 320.3 is amended to read as follows:

320.3 Conversion of a non-residential building or other structure ~~existing prior to May 12, 1958,~~ to an apartment house and not meeting one (1) or more of the requirements of Subtitle U § 301.2, shall be permitted as a special exception in an RF-1, RF-2 or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to the following provisions:

...

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by

email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.